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**From:** David A. Ludder [davidaludder@enviro-lawyer.com]  
**Sent:** 11/9/2017 11:17:54 AM  
**To:** Martinez, Brittany [Martinez.Brittany@epa.gov]  
**CC:** Dorka, Lilian [Dorka.Lilian@epa.gov]  
**Subject:** EPA File No. 13R-16-R4  
**Attachments:** 2017.11.01 ADEM Response to Comments.pdf; 2017.07.06 Comment2.pdf

Brittany:

Please see attached my comments on ADEM's proposed permit action for the City of Dothan Solid Waste Disposal Facility and ADEM's Response to Comments.

As you can see from ADEM's Response to Comments, ADEM continues to assert compliance with Title VI based on two rationales: (1) the environmental protection requirements of ADEM regulations and the final permit are protective of human health and the environment; and (2) ADEM does not make landfill siting decisions. Both of these rationales have previously been rejected by EPA as sufficient to demonstrate compliance with Title VI.

The only way EPA is going to modify ADEM's behavior is to deny ADEM federal financial assistance. EPA will not be able to "persuade" ADEM to abandon its position.

As you know, ADEM is required by 40 C.F.R. § 7.90(a) to adopt discrimination grievance procedures. African-American residents living near the Dothan Landfill, Arrowhead Landfill and Stone's Throw Landfill have filed a lawsuit contesting the validity of the procedures adopted by ADEM. The Montgomery County Circuit Court dismissed the lawsuit based on insufficient allegations of plaintiffs' standing. Plaintiffs appealed to the Alabama Court of Civil Appeals. Oral arguments were held before the Court on November 1, 2017. A decision should be handed down within three to four months. I predict the Court will reverse the decision of the Circuit Court and the case will be remanded to the Circuit Court to conduct further proceedings.

*David*

David A. Ludder

**LAW OFFICE OF DAVID A. LUDDER, PLLC**

9150 McDougal Ct. | Tallahassee, FL 32312-4208

Phone (850) 386-5671 | Fax (267) 873-5848

davidaludder@enviro-lawyer.com

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